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11 Attorneys For Defendant TRANS UNION LLC

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15
16 MARCI MARTINELLI,
individually and on behalf of the California
17 public,

Civil No. 99-1867 WHA
{Rel'd. Case: 99-0632 WHA}

18
19 Plaintiff,

20 v.

21 TRANS UNION CORPORATION,
a Delaware corporation;
22 ACXIOM CORPORATION,
a Delaware corporation; and
23 DOES 1 through 100, inclusive,

DEFENDANT TRANS UNION'S
RESPONSES TO PLAINTIFF
MARTINELLI'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS

24
25 Defendants.
26
27
28

DEFENDANT'S RESPONSE TO
PLAINTIFF MARTINELLI'S FIRST
REQUEST FOR DOCUMENTS IN MARTINELLI v. TRANS UNION LLC

1 MICHAEL ROSEN, on behalf of himself and
2 all other persons similarly situated,

3
4 Plaintiff,

5 v.

6 TRANS UNION CORPORATION,

7
8 Defendant.
9

10 Defendant Trans Union LLC, sued as "Trans Union Corporation" ("Trans Union"), pursuant
11 to Rule 34 of the Federal Rules of Civil Procedure, hereby responds to Plaintiff Martinelli's First
12 Request For Production Of Documents. As agreed between the parties and unless otherwise stated,
13 the responses are prepared to be consistent with the proposed stipulated changes to the Court's
14 September 24, 1999 Order Regarding Discovery ("Order"), as outlined in the November 2, 1999
15 letter and (its attached Exhibits A and B) from counsel for Trans Union to the Honorable Judge
16 William Alsup, not with the original September 24, 1999 Order.

17 **GENERAL OBJECTIONS**

18 1. Trans Union objects to the date, place and manner of production demanded by plaintiff
19 given the voluminous nature of the documents requested, and the fact that such voluminous
20 documents are located in Chicago, Illinois and Conway, Arkansas, and numerous other places
21 scattered throughout the country outside the Northern District of California and the State of
22 California. To the extent Trans Union does not object to the production of documents, Trans Union
23 will produce such documents for inspection at a time and date mutually agreed upon by the parties,
24 and at the places where such documents exist in the ordinary course of Trans Union's business.

25 2. Trans Union objects to each and every request for the production of documents to the
26 extent that such request calls for the production of documents which are protected from disclosure
27 by the attorney-client privilege and/or the attorney work product doctrine.
28

1 3. Trans Union objects to Definition "A" on the grounds that the phrase "any other
2 related companies or divisions" is vague and ambiguous and because the definition is overbroad and
3 unduly burdensome and demands the production of documents which are not relevant to the subject
4 matter of this litigation or reasonably calculated to lead to the discovery of admissible evidence.

5 4. Trans Union objects to Plaintiff's "Instructions" and "Definitions" to the extent that
6 they purport to impose obligations beyond those provided for by Fed. R. Civ. P. 34 or the Parties'
7 Stipulated Changes to the Order.

8
9
10 **RESPONSES TO DOCUMENT REQUESTS**

11 **Request No. 1:** All documents reflecting or referring to communications between Trans
12 Union and its target marketing customers that concern, evidence, reflect or refer to target marketing
13 lists.

14 **Response to Request No. 1:** Trans Union incorporates its General Objections herein by
15 reference. Trans Union further objects to this request in that it is overbroad and unduly burdensome
16 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
17 calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objections,
18 Trans Union has made available and will make further available for inspection the billing records,
19 production files, sales representative files and other files maintained by or on behalf of Trans Union,
20 and located in various locations throughout the country, including Chicago, Illinois and Conway,
21 Arkansas.

22
23 **Request No. 2:** A hard copy or printout of all information pertaining to Plaintiff in
24 CRONUS.

25
26 **Response to Request No. 2:** Trans Union incorporates its General Objections herein by
27

1 reference. Trans Union further objects to this request to the extent it demands that Trans Union
2 create documents which are not otherwise in existence, and further objects that the request is
3 overbroad and unduly burdensome to the extent it seeks a "hard copy or printout" of information in
4 CRONUS which is not part of credit reports or file disclosures printed in the ordinary course of
5 business. Without waiving the foregoing objections, Trans Union has already produced documents
6 responsive to this request, labeled TU00001-TU00022.

7
8 **Request No. 3:** A hard copy or printout of all information pertaining to Plaintiff in each copy
9 of version of Trans Union's Master File.

10 **Response to Request No. 3:** Trans Union incorporates its General Objections herein by
11 reference. Trans Union further objects to this request to the extent it demands that Trans Union
12 create documents which are not otherwise in existence. Without waiving the foregoing objections,
13 Trans Union has already produced documents responsive to this request, labeled TU00001-TU00022.

14 **Request No. 4:** A hard copy or printout of all information pertaining to Plaintiff in each copy
15 or version of Trans Union's Performance Base File.

16 **Response to Request No. 4:** Trans Union incorporates its General Objections herein by
17 reference. Trans Union further objects to this request to the extent it demands that Trans Union
18 create documents which are not otherwise in existence. Without waiving the foregoing objections,
19 Trans Union has already produced documents responsive to this request, labeled TU00001-TU00022.

20 **Request No. 5:** A hard copy or printout of all information pertaining to Plaintiff in each copy
21 or version of Trans Union's New Issues File.

22 **Response to Request No. 5:** Trans Union incorporates its General Objections herein by
23 reference. Trans Union further objects to this request to the extent it demands that Trans Union
24 create documents which are not otherwise in existence. Without waiving the foregoing objections,
25 Trans Union will make responsive documents available for inspection.
26

27 **Request No. 6:** One copy of each version of Trans Union's Master File.
28

1 **Response to Request No. 6:** Trans Union incorporates its General Objections herein by
2 reference. Trans Union further objects to this request in that it is over broad and unduly burdensome
3 and calls for the production of thousands of computer cartridges stored across the country. Without
4 waiving the foregoing objections, Trans Union will make responsive documents available for
5 inspection.

6
7 **Request No. 7:** One copy of each version of Trans Union's Performance Base File which has
8 been used to generate target marketing lists for purposes other than making a "firm offer of credit or
insurance" as defined in the Fair Credit Reporting Act, 15 U.S.C. §1681a(1).

9 **Response to Request No. 7:** Trans Union incorporates its General Objections herein by
10 reference. Trans Union further objects to this request in that it is over broad and unduly burdensome
11 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
12 calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objections,
13 Trans Union states that no responsive documents exist.

14 **Request No. 8:** One copy of each version of Trans Union's New Issues File.

15 **Response to Request No. 8:** Trans Union incorporates its General Objections herein by
16 reference. Trans Union further objects to this request in that it is over broad and unduly burdensome
17 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
18 calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objections,
19 Trans Union will make responsive documents available for inspection.

20
21 **Request No. 9:** All documents reflecting or referring to the identity of Trans Union's target
marketing customers.

22
23 **Response to Request No. 9:** Trans Union incorporates its General Objections herein by
24 reference. Without waiving the foregoing objections, Trans Union will make available for inspection
25 the billing records, production files, sales representative files, data sets and other files maintained by
26 or on behalf of Trans Union, and located in various locations throughout the country, including
27 Chicago, Illinois and Conway, Arkansas.

1 **Request No. 10:** All documents reflecting or referring to the identity of the third-party mailers
2 to whom Trans Union provides or has provided its target marketing lists.

3 **Response to Request No. 10:** Trans Union incorporates its General Objections herein by
4 reference. Without waiving the foregoing objections, Trans Union will make available for inspection
5 the billing records, production files, sales representative files, data sets, and other files maintained by
6 or on behalf of Trans Union, and located in various locations throughout the country, including
7 Chicago, Illinois and Conway, Arkansas.

8
9 **Request No. 11:** All documents reflecting or referring to the target marketing lists Trans
10 Union's target marketing customers or their agents have purchased, rented or otherwise obtained
11 said target marketing lists, including but not limited to all orders, invoices, receipts, confirmations and
12 other written communications with said customers or their agents.

13 **Response to Request No. 11:** Trans Union incorporates its General Objections herein by
14 reference. Trans Union further objects to this request in that it is overbroad and unduly burdensome
15 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
16 calculated to lead to the discovery of admissible evidence. Furthermore, Trans Union objects to this
17 Request in that the phrase "selects, indicators, extracts and/or other criteria used to generate said
18 target marketing lists" is vague and imprecise, making it difficult to determine what specific meaning
19 is intended and, thus, what documents are being requested. Without waiving the foregoing
20 objections, Trans Union will make available for inspection the billing records, production files, sales
21 representative files, data sets, and other files maintained by or on behalf of Trans Union, and located
22 in various locations throughout the country, including Chicago, Illinois and Conway, Arkansas.

23 **Request No. 12:** All documents reflecting or referring to the target marketing lists Trans
24 Union's target marketing customers or their agents have purchased, rented or otherwise obtained
25 from Trans Union, including but not limited to all orders, invoices, receipts, confirmations and other
26 written communications with said customers or their agents which show the target marketing
27 products (e.g., "E-VAL," "PIC," "P\$YCLE," "SOLO" and "TIE") used to generate said target
28 marketing lists.

1 **Response to Request No. 12:** Trans Union incorporates its General Objections herein by
2 reference. Trans Union further objects to this request in that it is overbroad and unduly burdensome
3 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
4 calculated to lead to the discovery of admissible evidence. Trans Union will make available for
5 inspection the billing records, production files, sales representative files, data sets and other files
6 maintained by or on behalf of Trans Union, and located in various locations throughout the country,
7 including Chicago, Illinois and Conway, Arkansas.

8
9 **Request No. 13:** All documents reflecting a target marketing list which has been or will be
10 disclosed to a third party and which contains Plaintiff's name.

11 **Response to Request No. 13:** Trans Union incorporates its General Objections herein by
12 reference. Trans Union further objects to this request in that the request for documents reflecting a
13 list which "will be disclosed" is vague and ambiguous. Trans Union objects to the extent the request
14 is vague and ambiguous in that Trans Union does not know which target marketing lists contain
15 plaintiff's name. Without waiving the foregoing objections, Trans Union will make responsive
16 documents available for inspection.

17 **Request No. 14:** All documents reflecting a target marketing list which has been or will be
18 disclosed to a third party and which contains the name of consumer(s) whose addresses are located
19 in California.

20 **Response to Request No. 14:** Trans Union incorporates its General Objections herein by
21 reference. Trans Union further objects to this request in that the request for documents reflecting a
22 list which "will be disclosed" is vague and ambiguous. Trans Union objects to the extent the request
23 is vague and ambiguous in that Trans Union does not know which target marketing lists contain
24 names of California consumers. Without waiving the foregoing objections, Trans Union will make
25 responsive documents available for inspection.

26
27 **Request No. 15:** All documents produced by Trans Union in the FTC proceeding.

1 **Response to Request No. 15:** Trans Union incorporates its General Objections herein by
2 reference. Without waiving the foregoing objections, Trans Union states that it made such
3 documents available for inspection by plaintiff's counsel from October 26 through October 29, 1999.
4

5 **Request No. 16:** All documents produced by the complaint counsel in the FTC proceeding.
6

7 **Response to Request No. 16:** Trans Union incorporates its General Objections herein by
8 reference. Without waiving the foregoing objections, Trans Union states that it made such
9 documents available for inspection by plaintiff's counsel from October 26 through October 29, 1999.
10

11 **Request No. 17:** All documents produced by third parties in the FTC proceeding.
12

13 **Response to Request No. 17:** Trans Union incorporates its General Objections herein by
14 reference. Trans Union further objects to the extent it demands the production of documents which
15 were produced pursuant to protective orders prohibiting Trans Union's use or disclosure of such
16 documents and other information outside the FTC proceeding. (Those protective orders were
17 attached to a June 7, 1999 letter from Elizabeth R. Bacon Ehlers to Matthew Righetti and Chris
18 Micheletti.) Subsequent to and conditioned upon the agreement and written consent of the third
19 parties producing such documents, Trans Union states that it made responsive documents available
20 for inspection by plaintiff's counsel from October 26 through October 29, 1999.
21

22 **Request No. 18:** All protective orders entered by the parties or any third parties in the FTC
23 proceeding.
24

25 **Response to Request No. 18:** Trans Union incorporates its General Objections herein by
26 reference. (Those protective orders were attached to a June 7, 1999 letter from Elizabeth R. Bacon
27 Ehlers to Matthew Righetti and Chris Micheletti.) Moreover, Trans Union states that it again made
28 responsive documents available for inspection by plaintiff's counsel from October 26 through October
29, 1999.

1 **Request No. 19:** All privilege logs exchanged or disclosed by the parties or by any third
2 parties in the FTC proceeding.

3 **Response to Request No. 19:** Trans Union incorporates its General Objections herein by
4 reference. Trans Union further objects to this request in that it is overbroad and unduly burdensome
5 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
6 calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objections,
7 Trans Union will make responsive documents available for inspection.

8
9 **Request No. 20:** All written discovery responses by Trans Union in the FTC proceeding.

10 **Response to Request No. 20:** Trans Union incorporates its General Objections herein by
11 reference. Without waiving the foregoing objections, Trans Union states that it made responsive
12 documents available for inspection by plaintiff's counsel from October 26 through October 29, 1999.
13

14 **Request No. 21:** All written discovery responses by complaint counsel in the FTC
15 proceeding.

16 **Response to Request No. 21:** Trans Union incorporates its General Objections herein by
17 reference. Without waiving the foregoing objections, Trans Union states that it made responsive
18 documents available for inspection by plaintiff's counsel from October 26 through October 29, 1999.
19

20 **Request No. 22:** All documents reflecting expert reports which were exchanged or disclosed
21 in the FTC proceeding.

22 **Response to Request No. 22:** Trans Union incorporates its General Objections herein by
23 reference. Without waiving the foregoing objections, Trans Union states that no documents
24 responsive to this request exist.
25

26 **Request No. 23:** All transcripts of testimony (deposition, trial, etc.) of Trans Union
27 personnel, Trans Union witnesses, Trans Union experts, complaint counsel witnesses, complaint
28 counsel experts, third-party personnel, third-party witnesses and third-party experts generated in the

1 FTC proceeding.

2
3 **Response to Request No. 23:** Trans Union incorporates its General Objections herein by
4 reference. Trans Union further objects to the extent it demands the production of documents which
5 were produced pursuant to protective orders prohibiting Trans Union's use or disclosure of such
6 documents and other information outside the FTC proceeding. (Those protective orders were
7 attached to a June 7, 1999 letter from Elizabeth R. Bacon Ehlers to Matthew Righetti and Chris
8 Micheletti.) Subsequent to and conditioned upon the agreement and written consent of the third
9 parties producing such documents, Trans Union states that it made all responsive documents
10 available for inspection by plaintiff's counsel from October 26 through October 29, 1999.

11
12 **Request No. 24:** All declarations and affidavits of Trans Union personnel, Trans Union
13 witnesses, Trans Union experts, complaint counsel witnesses, complaint counsel experts, third-party
14 personnel, third-party witnesses and third-party experts submitted in the FTC proceeding.

15 **Response to Request No. 24:** Trans Union incorporates its General Objections herein by
16 reference. Trans Union further objects to the extent it demands the production of documents which
17 were produced pursuant to protective orders prohibiting Trans Union's use or disclosure of such
18 documents and other information outside the FTC proceeding. (Those protective orders were
19 attached to a June 7, 1999 letter from Elizabeth R. Bacon Ehlers to Matthew Righetti and Chris
20 Micheletti.) Subsequent to and conditioned upon the agreement and written consent of the third
21 parties producing such documents, Trans Union states that it made all such documents available for
22 inspection by plaintiff's counsel from October 26 through October 29, 1999.

23 **Request No. 25:** All exhibits offered, entered and/or received into evidence in the trial before
24 Judge Timony in the FTC proceeding.

25 **Response to Request No. 25:** Trans Union incorporates its General Objections herein by
26 reference. Trans Union further objects to the extent it demands the production of documents which
27 were produced pursuant to protective orders prohibiting Trans Union's use or disclosure of such
28

1 documents and other information outside the FTC proceeding. (Those protective orders were
2 attached to a June 7, 1999 letter from Elizabeth R. Bacon Ehlers to Matthew Righetti and Chris
3 Micheletti.) Subsequent to and conditioned upon the agreement and written consent of the third
4 parties producing such documents, Trans Union states that it made all such documents available for
5 inspection by plaintiff's counsel from October 26 through October 29, 1999.

6
7 **Request No. 26:** All exhibits marked and used at any depositions in the FTC proceeding.

8
9 **Response to Request No. 26:** Trans Union incorporates its General Objections herein by
10 reference. Trans Union further objects to the extent it demands the production of documents which
11 were produced pursuant to protective orders prohibiting Trans Union's use or disclosure of such
12 documents and other information outside the FTC proceeding. (Those protective orders were
13 attached to a June 7, 1999 letter from Elizabeth R. Bacon Ehlers to Matthew Righetti and Chris
14 Micheletti.) Subsequent to and conditioned upon the agreement and written consent of the third
15 parties producing such documents, Trans Union states that it made all such documents in its
16 possession available for inspection by plaintiff's counsel from October 26 through October 29, 1999.

17
18 **Request No. 27:** All documents reflecting or referring to Trans Union's continuing or
19 discontinuing, or altering its practices pertaining to, the use of any selects, indicators, extracts or
other criteria in connection with its target marketing list business.

20 **Response to Request No. 27:** Trans Union incorporates its General Objections herein by
21 reference. Trans Union further objects to this request on the basis that it is vague and ambiguous,
22 and on the basis that it is overbroad and unduly burdensome and seeks documents which are neither
23 relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of
24 admissible evidence. Trans Union further objects on the basis that it seeks documents protected from
25 disclosure on the basis of the attorney-client privilege and the work product doctrine. Without
26 waiving these objections, Trans Union states that many of the documents responsive to other
27 document requests are also responsive to this request, and will be made available for inspection.

Request No. 28: All documents reflecting or referring to Trans Union's continuing or discontinuing, or altering its practices pertaining to, the use of any target marketing products in connection with its target marketing list business.

Response to Request No. 28: Trans Union incorporates its General Objections herein by reference. Trans Union further objects to this request on the basis that it is vague and ambiguous, and on the basis that it is overbroad and unduly burdensome and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of admissible evidence. Trans Union further objects on the basis that it seeks documents protected from disclosure on the basis of the attorney-client privilege and the work product doctrine. Without waiving these objections, Trans Union states that many of the documents responsive to other document requests are also responsive to this request, and will be made available for inspection.

Request No. 29: All documents reflecting or referring to the FTC's 1993 consent order with TRW Inc. regarding target marketing lists.

Response to Request No. 29: Trans Union incorporates its General Objections herein by reference. Trans Union further objects on the basis that it seeks documents protected from disclosure on the basis of the attorney-client privilege and the work product doctrine. Trans Union further objects to the extent it demands the production of documents which were produced pursuant to protective orders prohibiting Trans Union's use or disclosure of such documents and other information outside the FTC proceeding. As explained in the August 9, 1999, letter from Elizabeth R. Bacon Ehlers to Matthew Righetti and Chris Micheletti, the third-party primarily responsible for documents responsive to this request has refused to consent to the disclosure of the documents, thus these documents will not be made available. Without waiving the foregoing objections, Trans Union will make responsive documents available for inspection.

Request No. 30: All documents reflecting or referring to whether or not the disclosure, sale and/or distribution of any of Trans Union's target marketing lists or target marketing products violates the Fair Credit Reporting Act ("FCRA"), the Consumer Credit Reporting Agencies Act ("CCRAA")

or any other federal or California state law.

Response to Request No. 30: Trans Union incorporates its General Objections herein by reference. Trans Union further objects to this request in that it is over broad and unduly burdensome and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of admissible evidence. Trans Union further objects on the basis that it seeks documents protected from disclosure on the basis of the attorney-client privilege or the work product doctrine. Without waiving these objections, Trans Union states that many of the documents responsive to other document requests are also responsive to this request, and has been made available, and will be further made available for inspection.

Request No. 31: All documents reflecting or referring to Trans Union's continuing or discontinuing, or altering its practices pertaining to, the disclosure, sale and/or distribution of any target marketing lists or target marketing products in or around October 1997.

Response to Request No. 31: Trans Union incorporates its General Objections herein by reference. Trans Union further objects to this request on the basis that it is vague and ambiguous, and on the basis that it is overbroad and unduly burdensome and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of admissible evidence. Trans Union further objects on the basis that it seeks documents protected from disclosure on the basis of the attorney-client privilege and the work product doctrine. Without waiving these objections, Trans Union states that many of the documents responsive to other document requests are also responsive to this request, and will be made available for inspection.

Request No. 32: All documents reflecting or referring to Trans Union's no longer including certain information in its Master File commencing in or around October 1997.

Response to Request No. 32: Trans Union incorporates its General Objections herein by reference. Trans Union further objects to this request on the basis that it is vague and ambiguous, and on the basis that it is overbroad and unduly burdensome and seeks documents which are neither

1 relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of
2 admissible evidence. Without waiving these objections, Trans Union states that many of the
3 documents responsive to other document requests are also responsive to this request, and will be
4 made available for inspection.

5
6 **Request No. 33:** All documents reflecting or referring to Trans Union's continuing or
7 discontinuing, or altering its practices pertaining to, the disclosure, sale and/or distribution of any
8 target marketing lists or target marketing products in or around January 1998.

9 **Response to Request No. 33:** Trans Union incorporates its General Objections herein by
10 reference. Trans Union further objects to this request on the basis that it is vague and ambiguous,
11 and on the basis that it is overbroad and unduly burdensome and seeks documents which are neither
12 relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of
13 admissible evidence. Trans Union further objects on the basis that it seeks documents protected from
14 disclosure on the basis of the attorney-client privilege and the work product doctrine. Without
15 waiving these objections, Trans Union states that many of the documents responsive to other
16 document requests are also responsive to this request, and will be made available for inspection.

17
18 **Request No. 34:** All documents reflecting or referring to Trans Union's no longer including
19 certain information in its Master File in late 1997 or early 1998.

20 **Response to Request No. 34:** Trans Union incorporates its General Objections herein by
21 reference. Trans Union further objects to this request on the basis that it is vague and ambiguous,
22 and on the basis that it is overbroad and unduly burdensome and seeks documents which are neither
23 relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of
24 admissible evidence. Trans Union further objects on the basis that it seeks documents protected from
25 disclosure on the basis of the attorney-client privilege and the work product doctrine. Without
26 waiving these objections, Trans Union states that many of the documents responsive to other
27 document requests are also responsive to this request, and will be made available for inspection.

1 **Request No. 35:** All documents reflecting or referring to the creation in late 1997 or early
2 1998 of the Performance Base file.

3 **Response to Request No. 35:** Trans Union incorporates its General Objections herein by
4 reference. Trans Union further objects to this request in that it is over broad and unduly burdensome
5 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
6 calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objections,
7 Trans Union will make responsive documents available for inspection.

8
9 **Request No. 36:** All documents reflecting or referring to Trans Union's continuing or
10 discontinuing, or altering its practices pertaining to, the disclosure, sale and/or distribution of any
11 target marketing lists or target marketing products in or around April 1998.

12 **Response to Request No. 36:** Trans Union incorporates its General Objections herein by
13 reference. Trans Union further objects to this request on the basis that it is vague and ambiguous,
14 and on the basis that it is overbroad and unduly burdensome and seeks documents which are neither
15 relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of
16 admissible evidence. Trans Union further objects on the basis that it seeks documents protected from
17 disclosure on the basis of the attorney-client privilege and the work product doctrine. Without
18 waiving these objections, Trans Union states many of the documents responsive to other document
19 requests are also responsive to this request, and will be made available for inspection.

20
21 **Request No. 37:** All documents reflecting or referring to Trans Union's no longer including
22 certain information in its Master File in or around April 1998.

23 **Response to Request No. 37:** Trans Union incorporates its General Objections herein by
24 reference. Trans Union further objects to this request on the basis that it is vague and ambiguous,
25 and on the basis that it is overbroad and unduly burdensome and seeks documents which are neither
26 relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of
27 admissible evidence. Trans Union further objects on the basis that it seeks documents protected from
28

1 disclosure on the basis of the attorney-client privilege and the work product doctrine. Without
2 waiving these objections, Trans Union states that many of the documents responsive to other
3 document requests are also responsive to this request, and will be made available for inspection.

4
5 **Request No. 38:** All documents referring to the 1996 amendments to the FCRA which
6 became effective October 1, 1997 and to Trans Union's sale, disclosure or distribution of its target
7 marketing lists or target marketing products.

8 **Response to Request No. 38:** Trans Union incorporates its General Objections herein by
9 reference. Trans Union further objects to this request on the basis that it is vague and ambiguous,
10 and on the basis that it is overbroad and unduly burdensome and seeks documents which are neither
11 relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of
12 admissible evidence. Trans Union further objects on the basis that it seeks documents protected from
13 disclosure on the basis of the attorney-client privilege and the work product doctrine. Without
14 waiving these objections, Trans Union states that many of the documents responsive to other
15 document requests are also responsive to this request, and will be made available for inspection.

16 **Request No. 39:** All documents reflecting, referring or relating to Trans Union's consideration
17 of the "\$2500 per occurrence penalty" imposed by the 1996 amendments to the FCRA which became
18 effective October 1, 1997.

19 **Response to Request No. 39:** Trans Union incorporates its General Objections herein by
20 reference. Trans Union further objects to this request on the basis that it is vague and ambiguous,
21 and on the basis that it is overbroad and unduly burdensome and seeks documents which are neither
22 relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of
23 admissible evidence. Trans Union further objects on the basis that it seeks documents protected from
24 disclosure on the basis of the attorney-client privilege and the work product doctrine. Without
25 waiving these objections, Trans Union states that it has made available for inspection documents
26 responsive to this request, and will be made further available for inspection.

27 **Request No. 40:** All documents reflecting, referring or relating to Trans Union's consideration
28

1 or discussion of the fact that, with the 1996 amendments to the FCRA which became effective
2 October 1, 1997, Trans Union had gone from an environment where the worst thing that could
3 happen is that Trans Union would have to stop selling certain target marketing lists to an environment
4 where there were significant financial penalties.

5 **Response to Request No. 40:** Trans Union incorporates its General Objections herein by
6 reference. Trans Union further objects to this request on the basis that it is vague and ambiguous,
7 and on the basis that it is overbroad and unduly burdensome and seeks documents which are neither
8 relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of
9 admissible evidence. Trans Union further objects on the basis that it seeks documents protected from
10 disclosure on the basis of the attorney-client privilege and the work product doctrine. Without
11 waiving these objections, Trans Union states that it has made available for inspection documents
12 responsive to this request, and will be made further available for inspection.

13 **Request No. 41:** All documents reflecting or referring to the building of the Master File in
14 December 1997.

15 **Response to Request No. 41:** Trans Union incorporates its General Objections herein by
16 reference. Trans Union further objects to this request in that it is overbroad and unduly burdensome
17 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
18 calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objections,
19 Trans Union will make responsive documents available for inspection.

20
21 **Request No. 42:** All documents reflecting or referring to consumer privacy concerns or
22 expectations regarding use of credit information collected and stored by credit reporting agencies,
23 including any market, consumer or survey research regarding same.

24 **Response to Request No. 42:** Trans Union incorporates its General Objections herein by
25 reference. Trans Union further objects to this request in that it is overbroad and unduly burdensome
26 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
27 calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objections,
28

1 Trans Union states that documents responsive to this request were made available to plaintiff's
2 counsel for inspection from October 26, 1999 through October 29, 1999.

3
4 **Request No. 43:** All documents reflecting or referring to Trans Union's advertising,
5 promotion or marketing of its target marketing business, databases and products.

6 **Response to Request No. 43:** Trans Union incorporates its General Objections herein by
7 reference. Trans Union further objects to this request in that it is overbroad and unduly burdensome
8 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
9 calculated to lead to the discovery of admissible evidence. Trans Union objects to the extent materials
10 responsive to this request have been previously produced (TU000063- TU000173). Without waiving
11 the foregoing objections, Trans Union further states that documents responsive to this request were
12 made available to plaintiff's counsel for inspection from October 26, 1999 through October 29, 1999.

13
14 **Request No. 44:** All documents reflecting Trans Union's gross revenues from the distribution
15 and sale of target marketing lists and target marketing products.

16 **Response to Request No. 44:** Trans Union incorporates its General Objections herein by
17 reference. Trans Union further objects to this request in that it is overbroad and unduly burdensome
18 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
19 calculated to lead to the discovery of admissible evidence. Trans Union objects on these grounds
20 because the phrase "all documents reflecting Trans Union's gross revenues" calls for the production
21 of all customer invoices, which are voluminous. Without waiving the foregoing objections, Trans
22 Union will make responsive documents available for inspection.

23
24 **Request No. 45:** All documents reflecting Trans Union's net profits from the distribution and
25 sale of target marketing lists and target marketing products.

26 **Response to Request No. 45:** Trans Union incorporates its General Objections herein by
27 reference. Trans Union further objects to this request in that it is overbroad and unduly burdensome

1 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
2 calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objections,
3 Trans Union will make responsive documents, if any available for inspection.

4
5 **Request No. 46:** All documents produced in response to any discovery requests in the *Frey*
6 case.

7 **Response to Request No. 46:** Trans Union incorporates its General Objections herein by
8 reference. Trans Union restates its general and specific objections levied against each request to
9 produce in the *Frey* case. Trans Union states that documents responsive to this request were made
10 available to plaintiff's counsel for inspection from October 26, 1999 through October 29, 1999.

11
12 **Request No. 47:** All documents reflecting organizational charts for Trans Union and its
13 predecessors.

14 **Response to Request No. 47:** Trans Union incorporates its General Objections herein by
15 reference. Trans Union further objects to this request in that it is over broad and unduly burdensome
16 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
17 calculated to lead to the discovery of admissible evidence. Without waiving the foregoing objections,
18 Trans Union will make responsive documents available for inspection.

19
20 **Request No. 48:** All documents reflecting organizational charts for PerformanceData and
21 its predecessors.

22 **Response to Request No. 48:** Trans Union incorporates its General Objections herein by
23 reference. Without waiving the foregoing objections, Trans Union states that documents responsive
24 to this request have already been made available for inspection by plaintiff's from October 26, 1999
25 through October 29, 1999 and Trans Union will further make responsive documents available for
26 inspection.

1 **Request No. 49:** All documents reflecting lists of the titles and responsibilities of all
2 employees of PerformanceData and its predecessors.

3 **Response to Request No. 49:** Trans Union incorporates its General Objections herein by
4 reference. Without waiving the foregoing objections, Trans Union states that documents responsive
5 to this request have already been made available for inspection by plaintiff's from October 26, 1999
6 through October 29, 1999 and Trans Union will further make responsive documents available for
7 inspection.

8
9 **Request No. 50:** All documents reflecting, referring or relating to Trans Union's privacy
10 protocol, except for documents reflecting, referring or relating thereto which address only security
11 measures available to prevent unauthorized access to Trans Union's databases.

12 **Response to Request No. 50:** Trans Union incorporates its General Objections herein by
13 reference. Without waiving the foregoing objections, Trans Union will make responsive documents
14 available for inspection.

15
16 **Request No. 51:** All trial witness lists and trial exhibit lists submitted in the FTC proceeding.

17 **Response to Request No. 51:** Trans Union incorporates its General Objections herein by
18 reference. Trans Union states that documents responsive to this request were made available to
19 plaintiff's counsel for inspection from October 26, 1999 through October 29, 1999.

20
21 **Request No. 52:** All documents reflecting or referring to the extent of consumers' awareness
22 of their right to opt-out of Trans Union's target marketing lists.

23 **Response to Request No. 52:** Trans Union incorporates its General Objections herein by
24 reference. Trans Union further objects to this request in that it is overbroad and unduly burdensome
25 and seeks documents which are neither relevant to the subject matter of this litigation nor reasonably
26 calculated to lead to the discovery of admissible evidence in that each individual customer opt-out
27 or phone call ever received by Trans Union would be responsive to this request. Furthermore, Trans
28

1 Union objects to this request on the grounds that the phrase "extent of consumers' awareness" is
2 vague and imprecise and is inherently subjective to the extent it requires Trans Union to evaluate
3 consumer's thoughts and impressions. Without waiving the foregoing objections, Trans Union will
4 make responsive documents available for inspection.

5
6 **Request No. 53:** All documents reflecting or referring to Trans Union's efforts to make
7 consumers aware of their right to opt-out of Trans Union's target marketing lists.

8 **Response to Request No. 53:** Trans Union incorporates its General Objections herein by
9 reference. Trans Union further objects to the extent the request seeks all documents which constitute
10 sample "firm offer" mail pieces which advise of opt-out rights. Without waiving the foregoing
11 objections, Trans Union will make responsive documents available for inspection.

12
13 DATED: November 8, 1999

TRANS UNION LLC

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15
16 BY 
17 One of Its Attorneys
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PROOF OF SERVICE BY MAIL

I, the undersigned, declare that I am, and was at the time of service of the papers herein referred to, over the age of 18 years and not a party to the within action or proceeding. My business address is Piper Marbury Rudnick & Wolfe, 203 North LaSalle Street, Suite 1800, Chicago, Illinois 60601, which is located in the county in which the within-mentioned mailing occurred. I am readily familiar with the practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Such correspondence will be deposited with the United States Postal Service on the same day in the ordinary course of business.

On November 8, 1999, I served the following document:

DEFENDANT TRANS UNION'S RESPONSES TO PLAINTIFF MARTINELLI'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

by placing a true copy in a separate envelope for each addressee named below, with the name and address of the persons served shown on the envelope as follows:

COUNSEL FOR PLAINTIFFS:

Christopher T. Micheletti, Esq.
Furth, Fahrner & Mason
201 Sansome Street, Suite 1000
San Francisco, California 91404

Matthew Righetti, Esq.
220 Montgomery Street, 16th Floor
San Francisco, CA 94104

Kevin J. McInerney, Esq.
18124 Wedge Parkway #503
Reno, NV 89511

The envelopes were sealed and placed in the appropriate location at my place of business for collection and mailing with postage fully prepaid in accordance with ordinary business practices.

Executed on November 8, 1999, at Chicago, Illinois.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and accurate.

Sheila Broder
Sheila Broder

Dated: November 8, 1999

[670293]